

**2005 DRAFTING REQUEST**

**Bill**

Received: **01/12/2005**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Steinmetz**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Correctional System - prisons  
Criminal Law - drugs  
Criminal Law - sentencing**

Extra Copies: **gmm**

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Steinmetz, BB0407 -

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**Topic:**

Earned Release Program; alternatives to sentencing for non-violent offenders

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 01/19/2005	lkunkel 01/20/2005		_____			State
/1			chaugen 01/20/2005	_____	mbarman 01/20/2005		State
/2	mdsida 01/26/2005	lkunkel 01/26/2005	rschluet 01/26/2005	_____	lemery 01/26/2005		State
/3	mdsida 01/27/2005	lkunkel 01/27/2005	jfrantze 01/27/2005	_____	lemery 01/27/2005		

FE Sent For:

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Earned Release Program; alternatives to sentencing for individuals who abuse alcohol or other drugs

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1/3 lmk 1/27 Jo 1/27 Self  
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1/2 mk 1/26

126 5 38  
END

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Subject: **Correctional System - prisons**

Extra Copies: **gmm**

Submit via email: **NO**

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### **Pre Topic:**

DOA:.....Steinmetz, BB0407 -

---

### **Topic:**

Eligibility for Earned Release Program ✓

---

### **Instructions:**

See Attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida	/1 mk 1/19	ch 1-10	all 1-20 PS			

FE Sent For:

**<END>**

[NAME]

Page 2

January 11, 2005

**FY05-07 Statutory Language Cover Sheet**

Topic: Sentence Modification

*Tracking code* *BB0407*  
Team: Tax and Justice (TJ)

Contact: Steinmetz

Agency: DOC

Agency #: 410

**2005-2007 Biennial Budget  
Statutory Language Request**

**Topic:** Earned Release Program for Drug and Alcohol Offenders

**Current Language**

Current statutory language authorizes an earned release program at the Drug Abuse Correctional Center. The sentencing court determines eligibility for the program at the time of sentencing.

**Proposed Change**

Expand the earned release program to allow the Department of Corrections to designate other facilities in which the program may operate.

Expand eligibility determination by creating a board that would also have the ability to determine eligibility for the program.

**Effect of the Change**

The effect of this change will be to expand capacity and eligibility for the Earned Release Program.

Team:	Tax and Justice (TJ)
Contact:	Steinmütz
Agency:	DOC
Agency #:	410

DOA:.....Steinmetz, BB0407 - Earned Release Program; alternatives to sentencing for individuals who abuse alcohol or other drugs

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

LPS: reprint w/line #'s

DoNotGen

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

- Under current law, DOC and DHFS operate the Drug Abuse Correctional Center program in Winnebago, which provides substance abuse treatment for prison inmates transferred there. If DOC determines that an inmate has successfully completed the program, the inmate is released early to parole or extended supervision. Inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation. This bill authorizes DOC to establish similar treatment and release programs at any state prison.

- The bill also directs the Sentencing Commission to review sentences imposed on individuals who are dependent on alcohol or other drugs and who are convicted of nonviolent offenses other than those relating to operating a vehicle while under the influence of an intoxicant, or with a restricted controlled substance or a prohibited level of alcohol in his or her blood, and to develop recommendations for alternative dispositions for those individuals that may be used by courts at or before sentencing. The sentencing commission must submit its recommendations in a report to the legislature by December 31, 2005.



✓ For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1 ~~LPS delete comp~~ SECTION 1. 302.05 (1) of the statutes is renumbered 302.05 (1) (a) <sup>✓</sup> or, and

2 SECTION 2. 302.05 (1) <sup>(a)</sup> (intro.) of the statutes is renumbered 302.05 (1) (a)

3 ~~(intro.)~~ and <sup>is</sup> amended to read:

4 302.05 (1) (a) <sup>(intro.)</sup> The department of corrections and the department of health and

5 family services may designate a section of a mental health institute as a correctional

6 treatment facility for the treatment of substance abuse of inmates transferred from

7 Wisconsin state prisons. This section shall be administered by the department of

8 corrections and shall be known as the Wisconsin substance abuse program. ✓ The

9 department of corrections and the department of health and family services shall

10 ensure that the residents at the institution and the residents in the substance abuse

11 program:

12 History: 1989 a. 31; 1995 a. 27 s. 126 (19); 2003 a. 33. ✓

SECTION 3. 302.05 (1) (b) of the statutes is created to read:

13 302.05 (1) (b) The department of corrections may designate all or part of any

14 state prison as a correctional treatment facility and provide, at that facility,

15 programs for treating the abuse of alcohol or other drugs by inmates. ✓

16 SECTION 4. 302.05 (3) (b) <sup>✓</sup> of the statutes is amended to read:

17 302.05 (3) (b) Except as provided in par. (d), if the department determines that

18 an eligible inmate serving a sentence other than one imposed under s. 973.01 has

19 successfully completed the <sup>✓</sup> a treatment program described in sub. (1), the parole

20 commission shall parole the inmate for that sentence under s. 304.06, regardless of

21 the time the inmate has served. If the parole commission grants parole under this  
1 paragraph, it shall require the parolee to participate in an intensive supervision  
2 program for drug abusers as a condition of parole.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33. ✓

3 ~~SECTION 5.~~ 302.05 (3) (c) 1. of the statutes is amended to read:

4 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines  
5 that an eligible inmate serving the term of confinement in prison portion of a  
6 bifurcated sentence imposed under s. 973.01 has successfully completed the a  
7 treatment program described in sub. (1), the department shall inform the court that  
8 sentenced the inmate.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33. ✓

9 ~~SECTION 6.~~ 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

10 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.  
11 1. that an inmate whom the court sentenced under s. 973.01 has successfully  
12 completed the a treatment program described in sub. (1), the court shall modify the  
13 inmate's bifurcated sentence as follows:

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33. ✓

14 ~~SECTION 7.~~ 302.05 (3) (d) of the statutes is amended to read:

15 302.05 (3) (d) The department may place intensive sanctions program  
16 participants in the a treatment program described in sub. (1), but pars. (b) and (c)  
17 do not apply to those participants.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33. ✓

18 **SECTION 9101. Nonstatutory provisions; administration.** ✓

19 (1) REPORT REGARDING ALTERNATIVE DISPOSITIONS FOR ADDICTED OFFENDERS. The  
20 sentencing commission shall review sentences imposed on individuals who are  
21 dependent on alcohol or other drugs and who are convicted of nonviolent offenses,  
22 other than crimes under s. 23.33 (4c), 30.681, 346.63, or 350.101 or, if the offense

section

of the statutes

**SECTION 9101***of the statutes**section**§* 940.09 or 940.25

✓

involved the use of a vehicle, under *section* *§* 940.09 or 940.25, and develop  
recommendations for alternative dispositions for those individuals that may be used  
by courts at or before sentencing. By December 31, 2005, the sentencing commission  
shall submit its recommendations in a report to the legislature in the manner  
provided under section 13.172 *✓* (2) of the statutes.

(END)

## Dsida, Michael

---

**From:** Steinmetz, Jana  
**Sent:** Tuesday, January 25, 2005 2:39 PM  
**To:** Dsida, Michael  
**Subject:** RE: Statutory Language

Correct for #1. I think it should be left as it is in the current draft.

Thanks,  
Jana

-----Original Message-----

**From:** Dsida, Michael [mailto:Michael.Dsida@legis.state.wi.us]  
**Sent:** Tuesday, January 25, 2005 2:23 PM  
**To:** Steinmetz, Jana  
**Subject:** RE: Statutory Language

1. If DOC is interested in using a DACC facility other than the one it is currently using at Winnebago, it doesn't need to change the language in sub. (1), since that provision only states that DOC and DHFS "may designate a section...." In addition, I was under the impression that DACC is not part of the Wisconsin Resource Center, which is the only part of the Winnebago facility that is designated as a state prison under s. 302.01. If that is the case, limiting DOC to using state prisons means that the DACC program at Winnebago will no longer be authorized by the statutes.

2. I will make the change regarding the Sentencing Commission.

-----Original Message-----

**From:** Steinmetz, Jana  
**Sent:** Tuesday, January 25, 2005 2:06 PM  
**To:** Dsida, Michael  
**Subject:** FW: Statutory Language

Mike,

See Bob's e-mail below. We talked about the first part yesterday. Let me know what you think about the last part about the Sentencing Commission. I'm ok with it if it works for you.

I'm not in the office today, but I'm checking my e-mail frequently.

Thanks,  
Jana

-----Original Message-----

**From:** Nikolay, Robert A. DOC  
**Sent:** Monday, January 24, 2005 5:07 PM  
**To:** Steinmetz, Jana  
**Cc:** Clark, Jessica L. DOC; Raemisch, Rick F DOC; Frank, Matthew J. DOC; Fischer, Earl B. DOC  
**Subject:** Statutory Language

In reviewing the draft on the earned release program expansion, the drafter maintained the section on DHFS jointly designating with DOC a section of a mental health institute as a correctional treatment facility. While the proposed language in s. 302.05 (1)(b) does allow DOC to designate any other prison as a correctional treatment facility, I would include this language in 302.05(1) and delete other sections referencing DHFS in case at some point we no longer want DACC as a treatment facility or we build a new DACC off the Winnebago Mental Health Institute grounds. Also, since we may want designate a portion of smaller minimum facilities as correctional treatment facilities, which may not have separate wards, I would delete the current provision in s. 302.05(1)(b) that states that inmates in this program must be housed on separate wards. My suggested language would look something like this:

302.05 Wisconsin substance abuse program. (1) the department of corrections ~~and the department of health and family services~~ may designate a section of a mental health institute all or part of any state prison as a correctional treatment facility for the treatment of substance abuse of inmates ~~transferred from Wisconsin state prisons~~. This section shall be

~~administered by the department of corrections and shall be known as the substance abuse program.~~ The department of corrections and the department of health and family services shall ensure that the residents at the institutions and the residents in the substance abuse program:

- (a) ~~H~~have access to all those facilities which are available at the institution and are necessary for the treatment programs designed by the departments.
- (b) ~~Are housed on separate wards.~~

Also, in the section related to the Sentencing Commission it states "...review sentences imposed on individuals who are dependant on alcohol or other drugs..." This is basically a clinical determination of dependence or addiction which limits the scope of the population (abuses vs. addicted) and makes it difficult to target this population through our current data system. We would recommend language such as "... individuals in need of alcohol or other drug abuse treatment and who are convicted of nonviolent offenses..."

All other drafts are acceptable from our perspective, with the exception of the misdemeanor proposal. Jessica will be responding directly to that draft.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1660/1

MGD:lmk:ch

TODAY

DOA:.....Steinmetz, BB0407 - Earned Release Program; alternatives to sentencing for individuals who abuse alcohol or other drugs

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do NOT Gen

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

Under current law, DOC and DHFS operate the Drug Abuse Correctional Center Program in Winnebago, which provides substance abuse treatment for prison inmates transferred there. If DOC determines that an inmate has successfully completed the program, the inmate is released early to parole or extended supervision. Inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation. This bill authorizes DOC to establish similar treatment and release programs at any state prison.

The bill also directs the Sentencing Commission to review sentences imposed on individuals who are dependent on alcohol or other drugs and who are convicted of nonviolent offenses, other than those relating to operating a vehicle while under the influence of an intoxicant, or with a restricted controlled substance or a prohibited level of alcohol in his or her blood, and to develop recommendations for alternative dispositions for those individuals that may be used by courts at or before sentencing. The Sentencing Commission must submit its recommendations in a report to the legislature by December 31, 2005.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 302.05 (1) of the statutes is renumbered 302.05 (1) (a), and 302.05  
2           (1) (a) (intro.), as renumbered, is amended to read:

3           302.05 (1) (a) (intro.) The department of corrections and the department of  
4           health and family services may designate a section of a mental health institute as  
5           a correctional treatment facility for the treatment of substance abuse of inmates  
6           transferred from Wisconsin state prisons. This section shall be administered by the  
7           department of corrections ~~and shall be known as the Wisconsin substance abuse~~  
8           ~~program.~~ The department of corrections and the department of health and family  
9           services shall ensure that the residents at the institution and the residents in the  
10          substance abuse program:

11          **SECTION 2.** 302.05 (1) (b) of the statutes is created to read:

12          302.05 (1) (b) The department of corrections may designate all or part of any  
13          state prison as a correctional treatment facility and provide, at that facility,  
14          programs for treating the abuse of alcohol or other drugs by inmates.

15          **SECTION 3.** 302.05 (3) (b) of the statutes is amended to read:

16          302.05 (3) (b) Except as provided in par. (d), if the department determines that  
17          an eligible inmate serving a sentence other than one imposed under s. 973.01 has  
18          successfully completed ~~the~~ a treatment program described in sub. (1), the parole  
19          commission shall parole the inmate for that sentence under s. 304.06, regardless of  
20          the time the inmate has served. If the parole commission grants parole under this

paragraph, it shall require the parolee to participate in an intensive supervision program for drug abusers as a condition of parole.

**SECTION 4.** 302.05 (3) (c) 1. of the statutes is amended to read:

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**SECTION 5.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

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302.05 (3) (d) The department may place intensive sanctions program participants in the a treatment program described in sub. (1), but pars. (b) and (c) do not apply to those participants.

**SECTION 9101. Nonstatutory provisions; administration.**

(1) REPORT REGARDING ALTERNATIVE DISPOSITIONS FOR ADDICTED OFFENDERS. The sentencing commission shall review sentences imposed on individuals who are dependent on <sup>need</sup> alcohol or other drugs <sup>abuse treatment</sup> and who are convicted of nonviolent offenses, other than crimes under section 23.33 (4c), 30.681, 346.63, or 350.101 of the statutes or, if the offense involved the use of a vehicle, under section 940.09 or 940.25 of the statutes, and develop recommendations for alternative dispositions for those individuals that may be used by courts at or before sentencing. By December 31,

(cs) who abuse alcohol  
or other drugs



1        2005, the sentencing commission shall submit its recommendations in a report to the  
2        legislature in the manner provided under section 13.172 (2) of the statutes.

3 (END)



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1660/2 3  
MGD:lmk:rs

TODAY

DOA:.....Steinmetz, BB0407 - Earned Release Program; alternatives to sentencing for individuals who abuse alcohol or other drugs

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do NOT CEN

1 AN ACT ...; relating to: the budget.

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Head:  
CRIMES

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7           department of corrections and shall be known as the Wisconsin substance abuse  
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18 **SECTION 9101. Nonstatutory provisions; administration.**

19 (1) REPORT REGARDING ALTERNATIVE DISPOSITIONS FOR ~~OFFENDERS WHO ABUSE~~  
20 ~~ALCOHOL OR OTHER DRUGS.~~ <sup>non-violent</sup> The sentencing commission shall review sentences  
21 imposed on individuals ~~who need alcohol or other drug abuse treatment and~~ who are  
22 convicted of nonviolent offenses, other than crimes under section 23.33 (4c), 30.681,  
23 346.63, or 350.101 of the statutes or, if the offense involved the use of a vehicle, under  
24 section 940.09 or 940.25 of the statutes, and develop recommendations for  
25 alternative dispositions for those individuals that may be used by courts at or before

1 sentencing. By December 31, 2005, the sentencing commission shall submit its  
2 recommendations in a report to the legislature in the manner provided under section  
3 13.172 (2) of the statutes.

4 (END)



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1660/3

MGD:lmk:jf

DOA:.....Steinmetz, BB0407 - Earned Release Program; alternatives to sentencing for non-violent offenders

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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13          state prison as a correctional treatment facility and provide, at that facility,  
14          programs for treating the abuse of alcohol or other drugs by inmates.

15          **SECTION 3.** 302.05 (3) (b) of the statutes is amended to read:

16          302.05 (3) (b) Except as provided in par. (d), if the department determines that  
17          an eligible inmate serving a sentence other than one imposed under s. 973.01 has  
18          successfully completed the a treatment program described in sub. (1), the parole  
19          commission shall parole the inmate for that sentence under s. 304.06, regardless of  
20          the time the inmate has served. If the parole commission grants parole under this

1 paragraph, it shall require the parolee to participate in an intensive supervision  
2 program for drug abusers as a condition of parole.

3 **SECTION 4.** 302.05 (3) (c) 1. of the statutes is amended to read:

4 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines  
5 that an eligible inmate serving the term of confinement in prison portion of a  
6 bifurcated sentence imposed under s. 973.01 has successfully completed ~~the a~~  
7 treatment program described in sub. (1), the department shall inform the court that  
8 sentenced the inmate.

9 **SECTION 5.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

10 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.  
11 1. that an inmate whom the court sentenced under s. 973.01 has successfully  
12 completed ~~the a~~ treatment program described in sub. (1), the court shall modify the  
13 inmate's bifurcated sentence as follows:

14 **SECTION 6.** 302.05 (3) (d) of the statutes is amended to read:

15 302.05 (3) (d) The department may place intensive sanctions program  
16 participants in ~~the a~~ treatment program described in sub. (1), but pars. (b) and (c)  
17 do not apply to those participants.

18 **SECTION 9101. Nonstatutory provisions; administration.**

19 (1) REPORT REGARDING ALTERNATIVE DISPOSITIONS FOR NON-VIOLENT OFFENDERS.

20 The sentencing commission shall review sentences imposed on individuals who are  
21 convicted of nonviolent offenses, other than crimes under section 23.33 (4c), 30.681,  
22 346.63, or 350.101 of the statutes or, if the offense involved the use of a vehicle, under  
23 section 940.09 or 940.25 of the statutes, and develop recommendations for  
24 alternative dispositions for those individuals that may be used by courts at or before  
25 sentencing. By December 31, 2005, the sentencing commission shall submit its



3 (END)